

State of California
California Regional Water Quality Control Board
Santa Ana Region
Staff Report
November 30, 2007

ITEM: *7

SUBJECT: Order No. R8-2007-0087 Affirming Administrative Civil Liability
 Complaint No. R8-2007-0055 (Revised), City of Colton, San
 Bernardino County

BACKGROUND

On August 3, 2007, the Executive Officer issued Administrative Civil Liability Complaint (Complaint) No. R8-2007-0055 to the City of Colton (City) for alleged violations of the Areawide Urban Storm Water Runoff Permit for San Bernardino County and Incorporated Cities (Permit). In the original ACL, the Executive Officer proposed an assessment of \$167,274 for the alleged violations. Based on additional information provided by the City, a revised Complaint (attached) was issued with a proposed assessment of \$167,274, of which \$50,000 is suspended. The City agreed to waive its right to a hearing.

INTRODUCTION

The matter before the California Regional Water Quality Control Board, Santa Ana Region (Board), is whether to adopt Order No. R8-2007-0087, affirming the proposed assessment, including the terms and conditions for suspension of \$50,000 of the assessed amount, contained in Complaint No. R8-2007-55.

Complaint No. R8-2007-0055 was issued by the Executive Officer to the City for failing to comply with the Permit. The alleged violations are described in the Complaint (see attached Complaint).

DISCUSSION

The City is a co-permittee under the Permit. The current Permit is the third term permit that regulates urban storm water runoff from the City. Originally adopted in 1990, and renewed in 1996, 2002, the current Permit is presently undergoing revisions for its next five year term.

The third term Permit required the City to develop and/or refine programs and policies geared towards controlling sources of pollutants in urban storm water runoff.

On June 13-15, 2006, Board staff conducted an audit of the City's storm water program and discovered that the City had not fulfilled several significant elements required by the Permit. The City's failure to properly develop, implement, monitor

and report the programs and policies for controlling pollutants in urban storm water runoff constitutes violations of the Permit.

A Notice of Violation was issued to the City on September 22, 2006, for the alleged Permit violations. The City responded to the Notice of Violation in a November 14, 2006 correspondence. However, the City's response failed to provide sufficient information to justify any of the permit violations noted in the Notice of Violation.

From the findings listed in the attached Complaint, the Executive Officer originally proposed that a civil liability of \$167,274 be imposed on the City. This amount included \$104,184 in cost savings + \$50,000 suspended from ACL Complaint No. 98-93 + Board staff costs of \$13,900. However, through a series of pre-hearing meetings between City staff and Board staff, it was concluded that the City had made significant progress towards compliance with the Permit. The City provided additional information regarding its storm water program that was not available to Board staff prior to issuance of the Complaint. Based on the additional information provided by the City, it was agreed that \$50,000 of the assessment would be suspended if the City agreed to comply with the tasks (measurable goals) specified in the revised Complaint. These tasks are intended to bring the City into substantial compliance with the Permit.

RECOMMENDATION

Board staff recommends that the Board affirm the assessment of \$167,274 and suspend \$50,000 of that assessment, as specified in the revised Complaint issued by the Executive Officer on November 13, 2007, by adopting Order No. R8-2007-0087.